

**MINUTES
BOARD OF ADJUSTMENT
CITY HALL COUNCIL CHAMBERS
116 W. NEEDLES AVE.
BIXBY, OK 74008
June 02, 2014 6:00 PM**

In accordance with the Oklahoma Open Meeting Act, Title 25 O.S. Section 311, the agenda for this meeting was posted on the bulletin board in the lobby of City Hall, 116 W. Needles Ave., Bixby, Oklahoma on the date and time as posted thereon, a copy of which is on file and available for public inspection, which date and time was at least twenty-four (24) hours prior to the meeting, excluding Saturdays and Sundays and holidays legally declared by the State of Oklahoma.

STAFF PRESENT:

Erik Enyart, AICP, City Planner

ATTENDING:

See attached Sign-in Sheet

CALL TO ORDER

(Chair Jeff Wilson and the other Board members recognized and welcomed new member JR Donelson prior to the meeting's start).

Meeting called to order by Chair Jeff Wilson at 6:00 PM.

ROLL CALL

Members Present: Jeff Wilson, JR Donelson, Darrell Mullins, and Larry Whiteley.

Members Absent: Murray King.

1. Annual nominations and elections for Chairperson, Vice-Chairperson, and Secretary (Board of Adjustment By-Laws, Ord. # 772).

Chair Jeff Wilson introduced the item and called for nominations and Motions.

Larry Whiteley made a MOTION to NOMINATE and ELECT Jeff Wilson as Chair. Chair Jeff Wilson indicated willingness to accept the position if elected. Darrell Mullins SECONDED the Motion to NOMINATE and ELECT Jeff Wilson as Chair. Roll was called:

ROLL CALL:

AYE: Mullins, Wilson, Donelson, & Whiteley

NAY: None.

ABSTAIN: None.

MOTION CARRIED: 4:0:0

JR Donelson made a MOTION to NOMINATE and ELECT Murray King as Vice-Chair in absentia. Chair Jeff Wilson SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Mullins, Wilson, Donelson, & Whiteley
NAY: None.
ABSTAIN: None.
MOTION CARRIED: 4:0:0

Erik Enyart stated that he would be happy to serve as Secretary again if nominated. JR Donelson made a MOTION to NOMINATE and ELECT Erik Enyart as Secretary. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Mullins, Wilson, Donelson, & Whiteley
NAY: None.
ABSTAIN: None.
MOTION CARRIED: 4:0:0

MINUTES

2. Approval of Minutes for April 07, 2014

Chair Jeff Wilson introduced the item and asked to entertain a Motion. Larry Whiteley made a MOTION to APPROVE the Minutes of April 07, 2014 as presented by Staff. Chair Jeff Wilson SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Mullins, Wilson, & Whiteley
NAY: None.
ABSTAIN: Donelson.
MOTION CARRIED: 3:0:1

3. Approval of Minutes for May 05, 2014

Chair Jeff Wilson introduced the item and asked to entertain a Motion. Larry Whiteley made a MOTION to APPROVE the Minutes of May 05, 2014 as presented by Staff.

Discussion ensued regarding how many and which members present at this meeting were present at the May meeting. A Board member asked if it would be acceptable for a member to vote on the Minutes if that member was not present at that meeting. Erik Enyart responded that, at times past, members have voted to approve the Minutes along with the other members voting that were present, based on their belief that [those other members were voting correctly].

Darrell Mullins SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Mullins, Wilson, & Whiteley
NAY: None.
ABSTAIN: Donelson.
MOTION CARRIED: 3:0:1

OLD BUSINESS

Chair Jeff Wilson asked if there was any Old Business to consider. Erik Enyart stated that he had none. No action taken.

NEW BUSINESS

4. **BBOA-588 – Kevin Blake.** Discussion and possible action to approve a Special Exception per Zoning Code Section 11-7B-2 Table 1 to allow a Use Unit 7 duplex for property within the RS-3 Residential Single-Family District.
Property located: E/2 of Lot 1, Block 30, [Original Town of] Bixby; 300-block of E. Stadium Rd.
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Chair Jeff Wilson introduced the item and called on Erik Enyart for the Staff Report and recommendation. Mr. Enyart summarized the Staff Report as follows:

To: Bixby Board of Adjustment
From: Erik Enyart, AICP, City Planner
Date: Thursday, May 29, 2014
RE: Report and Recommendations for:
BBOA-588 – Kevin Blake

LOCATION: – 300-block of E. Stadium Rd.
– E/2 of Lot 1, Block 30, [Original Town of] Bixby
LOT SIZE: 7,068.25 square feet (0.16 acres), more or less
ZONING: RS-3 Residential Single-Family District
REQUEST: Special Exception per Zoning Code Section 11-7B-2 Table 1 to allow a Use Unit 7 duplex for property within the RS-3 Residential Single-Family District

SURROUNDING ZONING AND LAND USE:

North: RS-3 & CS; Single-family residential homes and vacant lots and a 4-unit mobile home park to the northwest, all zoned RS-3, and the “A Childs Dream DayCare & Preschool Inc.” to the northwest at 213 E. Stadium Rd. zoned CS, all in the [Original Town of] Bixby.
South: RM-1; A 15-acre RM-1 district containing unplatted vacant land immediately to the south, belonging to Bixby Public Schools, and the 10-acre Parkwood Apartments apartment complex to the southwest in Lot 1, Block 1, Parkwood Apartments.
East: RS-3 & AG; Abutting to the east is the platted but unbuilt southerly dead-end of South E. Ave. and a vacant lot belonging to Bixby Public Schools between it and Riverview Rd., all zoned RS-3 in the [Original Town of] Bixby; The Bixby Public Schools various school campuses, all unplatted and zoned AG, occupy most of the E/2 of this section across Riverview Rd. to the east.
West: RS-3 & CS; RS-3 & CS; Single-family residential homes and vacant lots and a 4-unit mobile home park to the northwest, all zoned RS-3, and the “A Childs Dream DayCare & Preschool Inc.” to the northwest at 213 E. Stadium Rd. zoned CS, all in the [Original Town of] Bixby.

COMPREHENSIVE PLAN: *Development Sensitive + Residential Area*

PREVIOUS/RELATED CASES:

[BZ-2] – “Zoning Application No. 1” – [City of Bixby] – Request for rezoning from R-2 to R-3 for all of Blocks 7, 8, 17, 18, 19, 20, 27, [28], 29, and 30, [Original Town of] Bixby, including subject property – PC hearing advertised for 05/07/1970. Board of Trustees approved 06/02/1970 (Ord. # 238).

BBOA-245 – Matthew Hodson for Aubrey Lancaster – Request for Appeal and Variance to allow a skateboard ramp on Lot 1, Block 30, [Original Town of] Bixby (includes subject property) – BOA Denied 01/06/1992.

BL-261 – Virginia Lancaster – Request for Lot-Split to separate subject property from the W/2 of Lot 1, Block 30, [Original Town of] Bixby, with an existing house addressed 308 E. Stadium Rd. – Prior Approval granted 03/08/2002. No record of PC consideration found.

RELEVANT AREA CASE HISTORY: (not a complete list)

BBOA-2 – Raymond Frasl – Request for Special Exception for mobile homes for all or parts of Lots 3, and 4, Block 25, [Original Town of] Bixby, located two (2) blocks to the northwest of subject property at 406 & 412 S. Main St. – Record of BOA consideration not found. No dates found in case file, but would have occurred in the late 1960s or the first part of 1970.

[BZ-1] – R.D. Evans – Request for rezoning from R-1 to R-3 for “apartments” for property located two (2) blocks to the northwest of subject property at 305 & 307 S. D Ave. – PC hearing advertised for 03/23/1970 and evidently recommended for Denial on or about that date. Letter dated 04/16/1970 appeals denial recommendation to Board of Trustees. No approval documentation and no ordinance found indicating this was approved by the Board of Trustees.

Final Plat of Parkwood Apartments – Final Plat for Parkwood Apartments for 10 acres located approximately 1 block to the southwest of subject property – no City of Bixby approval records found; possibly platted in unincorporated Tulsa County; no City or County approval information found on recorded plat (Plat # 3362 recorded 01/23/1973).

BZ-20 – Chester Cue – Request for rezoning from R-1 to C-1 and R-3 for commercial and multifamily development for 5 acres abutting subject property to the south – PC recommended Denial of C-1 zoning and Approval of R-3 zoning 10/06/1973 and Board of Trustees Denied C-1 zoning and Approved R-3 zoning 01/08/1974 (Ord. # 269 dated 02/05/1974).

BBOA-26 – Nancy Palmer – Request for Variance from the bulk and area requirements in the RS-3 district to permit a Lot-Split (cf. BL-19) for Lots 6 & 7, Block 22, [Original Town of] Bixby, located approximately 2 blocks to the northwest of subject property at 105 E. Second St. & 312 S. Main St. – BOA Approved 03/09/1976.

BZ-47 – Paul Showman – Request for rezoning from RS-3 to CG for a drive-in restaurant for property located approximately 2 ½ blocks to the northwest of subject property at 200 E. Bixby St. – PC recommended Denial 03/29/1976 and evidently not appealed to Board of Trustees.

BBOA-32 – Debra McLellen – Request for Variance from bulk and area requirements and a Special Exception for a mobile home in the RS-3 district for The E. 72’ of Lot 3, Block 20, [Original Town of] Bixby, located approximately 1 ½ blocks to the north of subject property at 310 S. E Ave. – BOA Denied 08/10/1976.

BBOA-40 (Originally filed and advertised as the second BBOA-39) – J.C. Biggers – Request for Variance from the bulk and area requirements in the RS-3 district to permit a Lot-Split (cf. BL-33) for Lot 3, Block 15, [Original Town of] Bixby, located approximately 2 ½ blocks to the northwest of subject property at 208 & 210 S. Main St. – Case notes indicate “Withdrawn” next to date 09/08/1977; However, it was still on the BOA Agenda 10/11/1977. No Minutes for that meeting found, and no other documents indicate its ultimate disposition. However, the lot has been split consistent with the BL-33 request per Assessor’s parcel records.

BBOA-63 – Loyd Haynes – Request for Special Exception for a mobile home in the RS-3 district for Lot 3, Block 26, [Original Town of] Bixby, located approximately 1 ½ blocks to the northwest of subject property at 213 E. Stadium Rd. – BOA Approved 06/12/1979.

BBOA-180 – Robert Amones – Request for Special Exception and Variance from setbacks for a carport and a Variance from the paving requirement for parking areas for Lot 8, Block 22, [Original Town of] Bixby, located approximately 2 ½ blocks to the northwest of subject property at 103 E. Second St. – BOA Approved 12/08/1986.

BBOA-197 – Sammy Bynum – Request for Variance from the bulk and area requirements in the RS-3 district to permit a Lot-Split (BL-127) for Lot 3, Block 22, [Original Town of] Bixby, located approximately 2 ½ blocks to the northwest of subject property at 306 S. Main St. – BOA Conditionally Approved 01/11/1988.

BBOA-198 – Bixby Public Schools – request for Variance from the 26' height restriction to allow up to 30' in height, to permit an addition to an existing school for the formerly 10-acre school property tract located approximately ½ block to the east at 501/515/601 S. Riverview Rd. – BOA Approved 01/11/1988 per case notes.

BBOA-213 – Betty Stevenson – Request for Special Exception and Variance from setbacks for a carport for the N. 43' of Lot 3, Block 15, [Original Town of] Bixby, located approximately 2 ½ blocks to the northwest of subject property at 208 S. Main St. – BOA Conditionally Approved 07/03/1989.

BZ-203 – Patricia L. Woods – Request for rezoning from RS-3 to RMH for a “mobile home park” for Lots 6 and 7, Block 25, [Original Town of] Bixby, located approximately 2 ½ blocks to the northwest of subject property at 405 S. B Ave. – PC recommended Denial 06/21/1993 and City Council Denied 07/12/1993.

BBOA-282 – Bixby Public Schools – Request for Special Exception to allow a Use Unit 5 school on part of the SW/4 SE/4 of the section (appears to include all of the school-owned tracts in the SW/4 SE/4 lying south of Bixby Creek) located approximately 2 ½ blocks to the southeast of subject property – BOA Approved 08/01/1994.

BBOA-321 – Barbara Redding – Request for Special Exception for a Use Unit 5 daycare (most recently the “A Childs Dream DayCare & Preschool Inc.”) for the S/2 of Lot 3, Block 26, [Original Town of] Bixby, located approximately 1 ½ blocks to the northwest at 213 E. Stadium Rd. – Withdrawn prior to 09/03/1996 meeting.

BZ-225 – Barbara Redding – Request for rezoning from RS-3 to CS for a daycare (most recently the “A Childs Dream DayCare & Preschool Inc.”) for the S/2 of Lot 3, Block 26, [Original Town of] Bixby, located approximately 1 ½ blocks to the northwest at 213 E. Stadium Rd. – PC recommended Approval 09/16/1996 and City Council Approved 10/28/1996 (Ord. # 747).

BBOA-339 – Bixby Public Schools – request for Special Exception to allow the expansion of the existing Use Unit 5 Bixby Central Elementary school building in the RS-3 district for all of Blocks 9 and 16, [Original Town of] Bixby, located two approximately 2 ½ blocks to the northwest of subject property at 201 S. Main St. – BOA Approved 08/03/1998.

BBOA-407 – Anita Lechliden – Request for Special Exception for a day care for the S. 57' of Lot 3, Block 15, [Original Town of] Bixby, located approximately 2 ½ blocks to the northwest of subject property at 210 S. Main St. – BOA Conditionally Approved 08/04/2003.

BBOA-521 – JR Donelson for Bixby Public Schools – request for Special Exception per Zoning Code Section 11-7A-2 Table 1 to allow a Use Unit 5 school facility in an AG Agricultural District on the former 72-acre school property tract located approximately 3 blocks to the northeast of subject property – BOA Approved 06/07/2010.

BBOA-570 – Lois & Richard Daniels – request for Variance from certain bulk and area requirements of Zoning Code Section 11-7B-4.A.1 Table 3 to allow for a Lot-Split in the RS-3 Residential Single-Family District for property located approximately 2 blocks to the northwest of subject property at 313 S. Main St. – BOA Conditionally Approved 01/07/2013.

BACKGROUND INFORMATION:

ANALYSIS:

Property Conditions. The subject property is vacant, has an average depth of approximately 100.975' (mathematical estimation), and has 70' of frontage on Stadium Rd., and so contains approximately 7,068.25 square feet (0.16 acres), and is zoned RS-3 Residential Single-Family High Density District. The subject property slopes downward slightly to the south toward Bixby Creek.

Special Exception Request. The Applicant is requesting a Special Exception for a Use Unit 7 duplex for property within the RS-3 Residential Single-Family District. The Applicant has provided a site plan, floor plan, and building elevations information. The proposed duplex would face north to Stadium Rd., would have a one (1)-car attached garage for each unit, and would appear to meet the setback requirements in the RS-3 district.

Comprehensive Plan. The Comprehensive Plan designates the subject property as (1) Development Sensitive and (2) Residential Area.

The Special Exception requests approval for a Use Unit 7 duplex in the RS-3 district. The same could be achieved by rezoning to an RD Residential Duplex district. However, a “spot-zoned” RD district would not be as appropriate as a Special Exception allowing a singular duplex in an appropriate area with Conditions of Approval appropriate for the site. Rezoning also triggers additional planning and development exercises which may be excessive due to the limited scale of the infill duplex proposed for an existing platted lot. Since the zoning/land use approval as requested here would be similar to rezoning to RD, the Comprehensive Plan’s “Matrix to Determine Bixby Zoning Relationship to the Bixby Comprehensive Plan” (“Matrix”) on page 27 of the Comprehensive Plan can be used to inform this land use decision.

The Development Sensitive designation appears to correspond to the 100-year (1% Annual Chance) Regulatory Floodplain. Floodplain areas may sometimes have soils which are not naturally conducive to construction, and may require remedial soil chemical work and/or special construction methods. In this case, the duplex must be constructed on an elevated, flow-through foundation with openings sized to meet FEMA specifications for same. This will ensure (1) the First Finished Floor of the duplex would be at least one (1) foot above the 100-year Base Flood Elevation, and (2) the area underneath the floor will allow the water underneath the structure during flooding, so as not to displace floodwaters onto other properties. These are required by FEMA and City of Bixby Floodplain Regulations.

The “Matrix” on page 27 of the Comprehensive Plan provides that RD zoning (a proxy for duplex use) May Be Found In Accordance with the Development Sensitive designation of the Comprehensive Plan Land Use Map.

Page 7, item numbered 1 of the Comprehensive Plan states:

“ The Bixby Comprehensive Plan map depicts desired land uses, intensities and use and development patterns to the year 2020. Intensities depicted for undeveloped lands are intended to develop as shown. Land uses depicted for undeveloped lands are recommendations which may vary in accordance with the Intensities depicted for those lands.” (emphasis added)

This language is also found on page 30, item numbered 5.

This text introduces a test to the interpretation of the Comprehensive Plan Land Use Map, in addition to the Matrix: (1) If a parcel is within an area designated with a specific “Land Use” (other than “vacant, agricultural, rural residences, and open land,” which cannot be interpreted as permanently-planned land uses), and (2) if said parcel is undeveloped, the “Land Use” designation on the Map should be interpreted to “recommend” how the parcel should be zoned and developed. Therefore, the “Land Use” designation of the Comprehensive Plan Land Use Map should also inform/provide direction on how rezoning applications should be considered by the Planning Commission and City Council.

Staff believes that RD zoning would be, and the proposed duplex residential use is consistent with the Residential Area land use designation of the Comprehensive Plan Land Use map.

Surrounding Zoning and Land Use. To the north and west of the subject property are single-family residential homes and vacant lots and a 4-unit mobile home park to the northwest, all zoned RS-3, and the existing or former “A Childs Dream DayCare & Preschool Inc.” to the northwest at 213 E. Stadium Rd. zoned CS, all in the [Original Town of] Bixby.

A 15-acre RM-1 district abuts the subject property to the south, and contains an unplatted vacant parcel immediately to the south, belonging to Bixby Public Schools, and the 10-acre Parkwood Apartments apartment complex to the southwest in Lot 1, Block 1, Parkwood Apartments.

Abutting the subject property to the east is the platted but un-built southerly dead-end of South E. Ave. and a vacant lot belonging to Bixby Public Schools between it and Riverview Rd., all zoned RS-3 in the [Original Town of] Bixby. The Bixby Public Schools various school campuses, all unplatted and zoned AG, occupy most of the E/2 of this section across Riverview Rd. to the east.

Staff believes that the proposed duplex use would be compatible and consistent with surrounding zoning and land use patterns. The proposed duplex would make an appropriate buffer between the 15-acre RM-1 district abutting to the south, including the 10-acre Parkwood Apartments to the southwest, and the single-family residential areas to the north. Further, due to the proximity of the various school campuses to the east, including the high school football stadium, the lights, noise, and traffic that these intensive uses generate, the proposed duplex use would appear a more likely form of infill than a single-family home.

Stadium Rd. functions as a collector street, connecting Memorial Dr. to Riverview Rd. at the mid-mile point between 151st and 161st Streets South, and it has a stoplight at Memorial Dr. Riverview Rd.

also is or functions as a collector street, located at the mid-mile point between Memorial Dr. and Mingo Rd. Riverview Rd., located ½ block to the east, was recently widened to add a center turning lane, has had a sidewalk added to one or the other side of the street, and has had stormsewer drains installed to improve area drainage. This existing and improved infrastructure further enhances the develop-ability of the area, including the subject property.

The two (2) houses to the north of subject property are mobile homes, one (1) of which appears to have add-ons. There is a 4-unit mobile home park to the northwest of the subject property. There are three (3) houses on the south side of this block to the west. The house immediately to the west appears to be fully brown-brick. The house to the west of that does not appear to have masonry, but the third house to the west to D. Ave. appears to have partial brick. The apartment buildings in Parkwood Apartments appear to be almost fully brick. Staff believes it would be appropriate to ask the Applicant their willingness to consider at least partial brick masonry in order to be compatible with surrounding dwellings with masonry, especially the house immediately to the west.

Staff Recommendation. Due to the Comprehensive Plan and surrounding zoning and land use patterns, and for all the other reasons outlined above, Staff recommends Approval subject to (1) substantial conformance to the plans provided by the Applicant and (2) full compliance with City Engineer recommendations as to drainage, utilities, and access.

Chair Jeff Wilson recognized Applicant Kevin Blake of 8812 E. 110th St. S. from the Sign-In Sheet. Mr. Blake stated that he was “not a big developer,” and that he [and his partner(s)] “buy old, fix up, and rent out.” Mr. Blake stated that the Bixby Public Schools owned the 5-acre tract [abutting to the south and the east of this property], and would probably use it as overflow parking [for the stadium]. Mr. Blake stated that the subject property was not good for single family, but [would be] for a duplex, and that the duplex could be a “buffer to the stadium” and would “block everybody else [to the west].” Mr. Blake stated that one could build a single-family house, but indicated it would be better to build a duplex considering the mobile homes, daycare [business], and [other surrounding uses]. Mr. Blake indicated it would improve the area to “build new,” stating that the “other things out there need an upgrade.” Mr. Blake stated that he had consulted with Erik [Enyart] and [City Engineer] Jared [Cottle] and they “thought it could work.”

Kevin Blake provided color printout copies of the plans and perspective drawings included in the agenda packet.

Kevin Blake indicated he would be willing to do “at least half, maybe full” masonry on the duplex.

JR Donelson asked Kevin Blake if he would do a brick wainscot halfway up the building’s sides, and Mr. Blake responded, “At least [that].”

Chair Jeff Wilson recognized Janet Dyer of 12630 S. Mingo from the Sign-In Sheet. Ms. Dyer stated that she was attending to hear about a couple developments, one on 111th St. S. east of Mingo Rd. [PUD 60 Major Amendment # 1] and [PUD 6 Major Amendment # 1 and BZ-374], but did not see them on the agenda. Ms. Dyer stated that she would “attend all [the meetings] until” they were brought up. Erik Enyart stated that he had sent out notices for these cases, and offered to help Ms. Dyer after the meeting.

Kevin Blake stated that the duplex units would have two (2) bedrooms and one (1) bathroom, and one (1) car garages. Mr. Blake stated that the school [may be] building [South E. Ave.] [to the east of the subject property], but he did not want “to get in the roadbuilding business.” Mr. Blake

stated that the lot was 70'-wide, and that he would expect the typical resident to be a single parent with one (1) kid.

JR Donelson stated that, as a lifelong resident of Bixby, he considered this to be a good use of the property, and asked Kevin Blake if he would agree to the recommended Conditions of Approval, including brick. Mr. Blake responded, "Yes." Mr. Donelson suggested that the 50% brick masonry requirement could take the form of 100% on the front, and the balance of the 50% as wainscot on the [three (3) other sides], and Mr. Blake indicated agreement.

Larry Whiteley made a MOTION to APPROVE BBOA-588 subject to the Staff Recommendations as listed in the Staff Report, and subject to a 50% minimum masonry requirement, which requirement could take the form of 100% on the front, and the balance of the 50% as wainscot on the three (3) other sides. JR Donelson SECONDED the Motion. Roll was called:

ROLL CALL:

AYE:	Mullins, Wilson, Donelson, & Whiteley
NAY:	None.
ABSTAIN:	None.
MOTION CARRIED:	4:0:0

ADJOURNMENT

Chair Jeff Wilson declared the meeting Adjourned at 6:18 PM.

APPROVED BY:

Chair

Date

City Planner/Recording Secretary